IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

WA.No. 1769 of 2007

AGAINST THE ORDER IN WP(C).NO.15616/2007 Dated 24/05/2007

APPELLANT: PETITIONER

PARAMBIL SIRAJ,
S/O.MOIDEENKUTTY, POST TIRUNAVAYA, TIRUR TALUK,
MALAPPURAM DISTRICT.

BY ADV. SRI.C.S.MANILAL

RESPONDENTS: RESPONDENTS
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1. THE TAHSILDAR, TIRUR.

2. THE DISTRICT COLLECTOR,
MALAPPURAM.

BY SENIOR GOVERNMENT PLEADER SMT.MEERA

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 14/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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W.A. No. 1769 OF 2007

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Dated this the 14th August , 2007

J U D G M E N T

H.L. Dattu, C.J.:

This appeal is directed against the interim order passed by this Court in W.P.(C)No. 15616 of 2007 dated 24th May, 2007.

2. The petitioner is the owner of a vehicle bearing registration No. KL. 8T.6532. The vehicle was seized by the respondents for the alleged contravention of the provisions of the Kerala River Bank Protection and Sand Mining Regulation Act, 2001 read with the Kerala River Bank Protection and Regulation of Sand Mining Rules, 2002. Aggrieved by the said action of the respondents, the appellant/petitioner was before this Court in the aforesaid Writ Petition, inter alia seeking a writ in the nature of a certiorari to quash the order of seizure and also a writ of mandamus directing the respondents to release the vehicle which is in the custody of the respondents.

3. The learned single Judge, after taking into consideration the fact that the petitioner has no other means, except using his vehicle for the purpose of doing business, has thought it fit to release the vehicle on certain conditions. The conditions imposed by the learned single Judge are that the petitioner shall deposit a sum of Rs. 25,000/- and shall furnish bank guarantee for the balance amount, as demanded by Ext. P4 order of the second respondent herein. The interim order so passed by the learned single Judge is the subject matter of this Writ Appeal.

4. Shri .C.S. Manilal, learned counsel for the appellant would vehemently contended before this court that the interim order passed by the

learned single Judge is contrary to the statutory provisions and therefore it is requested that, this court should interfere with the said interim order so passed by the learned single Judge. It is also requested that a direction may be issued to the respondents to release the vehicle by accepting a sum of Rs. 25,000/- only. Alternatively, it is contended that the learned single Judge is not justified in directing the petitioner to furnish bank guarantee for the balance amount , as demanded by Ext. P4 order.

5.. None of the contentions canvassed by the learned counsel for the appellant/petitioner, in our opinion, has any merit whatsoever. The court, as we have already stated, by taking a sympathetic view, has directed the respondents to release the vehicle on certain conditions and those conditions cannot be characterised either as arbitrary or perverse or in contravention of the Act and the Rules referred to above.

6. In that view of the matter, we decline to entertain this Writ Appeal. Accordingly, the Writ Appeal requires to be rejected and it is rejected.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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